

Statement of

The Honorable Patrick Leahy

United States Senator
United States Senate
December 12, 2012

Today we welcome four of President Obama's district court nominees to the Committee. I thank Senator Whitehouse for chairing this important hearing and I thank our ranking Republican member, Senator Grassley, for continuing to work with me to schedule these hearings.

This is the eleventh hearing the Committee has held this year for judicial nominations. I have not jammed the minority with judicial confirmation hearings the way my Republican predecessor did when he was chairman in 2003. That year the Republicans proceeded with 29 hearings for 85 nominees in just one congressional session. Instead, I have taken the steady and measured course and protected minority rights. Rather than seek to jam 29 hearings into one year, we have taken two years to reach that total this Congress.

Despite my solicitousness, our Republican members would not agree to move forward with the nomination of Srikanth Srinivasan to the D.C. Circuit. His nomination was received last June and I would have liked to have proceeded with his hearing without further delay. Since there will soon be four vacancies on this important court, it makes no sense to me for us to wait-especially in light of the Republican filibuster of the President's earlier nominee to this Circuit. I appreciate that the Republicans members have agreed that they will be ready to proceed on that nomination at our first confirmation hearing next month, in January of the new Congress.

Regrettably, Senate Republicans continue their practice of requiring the Senate to extend consideration of nominees over two years. This year, again, the Senate had to consider 19 judicial nominees who could and should have been confirmed last year. It appears Senate Republicans are continuing that unfortunate slowdown and are refusing to proceed on nearly a dozen judicial nominees ready for final Senate action this year after full consideration by the Judiciary Committee. These delays mean that the Senate will, again, be needlessly forced to devote the first several months of next year confirming judges who could and should have been confirmed the previous year.

We will not begin to approach the 205 confirmations we achieved during President Bush's first term by the end of this President's first term nor will we reduce vacancies significantly. In fact, in light of such obstruction, President Obama may be the first President to end his first term with higher judicial vacancies - due solely to obstruction - than when he became President. This is bad for our Federal courts and for the American people who depend on them for justice.

I look forward to hearing from our four nominees today along with a number of their home state Senators. All of the nominees for whom we have held hearings during these four years have had the support of both their home state Senators. President Obama has done a good job of reaching out to home state Senators from both parties and working with them. Both those facts distinguish our process from that of President Bush and the Republicans when they were the majority in the Senate.

I know that home state Senators would like to see the nominees appearing today confirmed before the end of this year. I am prepared to expedite the Committee process. That is what we

have done in the past as the end of the Congress loomed. With Republican cooperation these nominees could be reported to the Senate by the Committee, confirmed by the Senate and could be getting to work for the people of Louisiana, Nevada, California, and D.C. before the new year. When George W. Bush was President, Democrats cooperated in moving judicial nominees quickly through the Committee and to a confirmation vote at the end of the year. I did so whether I was Chairman or the ranking member. We have demonstrated in the past that we can do this. There is no need for the months and months of stalling that now delay every judicial nominee after being reviewed and voted on by this Committee. Senate Republicans have become increasingly insistent on needless delays. President Obama's district court nominees have been stalled an average of 101 days on the Senate floor before a final vote. Just last week the Senate confirmed Judge Michael Shea to a vacancy on the District Court for the District of Connecticut. His nomination had been needlessly delayed for 223 days.

At the end of President Bush's administration, I worked to bring five of his nominees up for a confirmation votes by the Senate just three days after their hearing. Overall, more than two dozen of President Bush's nominees - including three circuit nominees - were confirmed within two weeks of their hearing. That is roughly the amount of time we have left before we expect to adjourn. Unless substantial issues arise during today's hearing, I am prepared to expedite consideration of these nominees like we did for President Bush's nominees. We have often been able to do this at the end of a Congress, and this year should be no exception-- especially given the high level of judicial vacancies plaguing our Federal courts. I remind Senate Republicans that the Senate confirmed an Alabama nominee to the district court within two days of his vote by the Judiciary Committee just a couple years ago. There have literally been hundreds of judicial confirmations within 14 days of our Judicial Committee hearing including more than 600 confirmed since World War II in just one week.

I am particularly interested in moving quickly to fill judicial emergency vacancies, like the one in the Central District of California that Judge Beverly O'Connell is nominated to fill. That district is one of our Nation's busiest, and delays on her nomination do not benefit the people of California. We expedited nominees to that district four times during the Bush administration in recognition of its high caseloads, and we should do so now. Of the four nominees before us today, two would fill vacancies that have been open for more than a year. Let us work together as we have in the past to expedite these nominations to Senate confirmation.

The nomination of Shelly Dick to the Middle District of Louisiana has been stalled since she was nominated back in April because the Republican Senator from that state would not return a "blue slip" indicating his support. Following President Obama's reelection in November, he finally relinquished his hold on the nomination. It is past time to confirm this nominee. Now that Senator Vitter has indicated, after an eight-month delay, that he supports the nomination, we should expedite Senate consideration.

I see no reason why the Senate should not confirm all four of the nominees appearing before us today before the end of the year. We should allow these nominees to get to work on behalf of the American people.

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